

**United States District Court  
Southern District of Texas  
FILED**

DEC 23 2008

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**Michael N. Milby, Clerk**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION

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## **MEMORANDUM AND ORDER**

Pending is a Report and Recommendation by U.S. Magistrate Judge Diana Saldaña, filed November 25, 2008 (Dkt. No. 10), which recommends that Petitioner's petition for a writ of habeas corpus under 28 U.S.C. § 2254 be denied without prejudice, pursuant to Rule 41(b), for failure to prosecute. Petitioner has not filed any objections.

Having reviewed the Report and Recommendation for clear error, this Court concludes that it should be ACCEPTED.

The sole thrust of Petitioner's petition is that the sentencing judge did not give him credit for "all time in jail," including while on community supervision. Petitioner alleges he was due sixteen months of jail credit.

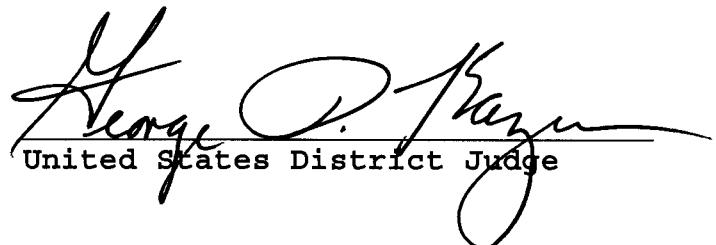
As Judge Saldaña relates, this petition is now probably moot as Petitioner was released on parole in July. Petitioner did not file an updated mailing address with the Clerk after his release, but Judge Saldaña located Petitioner's new address in

Houston, Texas. It is clear that all reasonable efforts were made to locate Petitioner and give him an opportunity to comply with Court orders. It seems apparent the he no longer has interest in pursuing this case.

Conclusion

Petitioner's petition for habeas relief (Dkt. No. 1) will be dismissed without prejudice.

DONE at Laredo, Texas, this 22d day of December, 2008.

  
George D. Hagan  
United States District Judge